IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1381 OF 1994

M/s. Mohan Meakin Ltd. & Anr. .. Petitioners

V/s

Union of India & Ors. .. Respondents

Shri. Venkat Krishna i/b. M/s. Shah & Sanghavi for the Petitioners.

Shri. P.S. Jetly with Shri R.C. Master for Respondent Nos. 1 and 2.
Shri. N. Munjee i/b. M/s. Mulla & Mulla & CBC for Respondent No.3.

CORAM : DR.S.RADHAKRISHNAN &
J.P.DEVADHAR, JJ.

DATE : 30TH JANUARY, 2006.

P.C.:

1. Heard the learned Counsel for the parties. In the present case, during the pendency of the petition the Order in Assessment dated 13th April, 1994 (which was issued on 13th June, 1994) has been passed & the petition has been amended to challenge the said order. However, in view of the fact that the issue raised in this petition pertains to the classification, in our opinion it would be more advantageous if the matter is heard by the appellate authority under the Customs Act. In these circumstances, the learned Counsel for the Petitioner seeks leave to withdraw this petition with liberty to challenge the Order in Original before the Commissioner of Customs (Appeals).

2. Accordingly we permit the Petitioners to withdraw the Writ Petition with liberty to the Petitioners to approach the Commissioner of Customs (Appeals) by filing an appeal within four weeks from today. Since the Petitioner had challenged the Order in Original in this petition, the Petitioners will be entitled to seeks condonation of delay for the period during which the petition was pending in this Court. It is made clear that the Petitioners shall keep the bank guarantee alive till the disposal of appeal by the Commissioner of Customs (Appeals) and for a further period of four weeks thereafter.

(DR.S.RADHAKRISHNAN,J.)

(J.P.DEVADHAR,J.)